

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

CHARLES VINCENT WARDEN,

No. 3:15-cv-00038-HZ

Plaintiff,

v.

NANCY A. BERRYHILL, Acting
Commissioner of Social Security,

ORDER

Defendant.

Plaintiff Charles Warden brought this action seeking review of the Commissioner's final decision to deny disability insurance benefits (DIB) and supplemental security income (SSI). On November 17, 2015, based on the stipulation of the parties, I remanded the case to the Commissioner for further administrative proceedings. ECF 22. Judgment was entered on November 17, 2015.

On remand, an Administrative Law Judge awarded Plaintiff benefits. Pl.'s Mot., Ex. 5, ECF 27-5. Plaintiff now seeks an award of attorney's fees pursuant to 42 U.S.C. § 406(b). Defendant has no objection to the request. I have reviewed the record in the case, the motion,

and the supporting materials including the award of benefits, the fee agreement with counsel, and the recitation of counsel's hours and services. Applying the standards set by *Gisbrecht v. Barnhart*, 535 U.S. 789, 796 (2002), I find the requested fees reasonable.

I grant the motion [27] and award Plaintiff's counsel \$18,276.00 in attorney's fees under 42 U.S.C. § 406(b). Previously, I awarded Plaintiff attorney's fees in the amount of \$4,628.95 under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. ECF 25. Deducting that amount from the § 406(b) award leaves a net award of \$13,647.05. However, Plaintiff represents that the Social Security Administration has already deducted \$6,000 in fees under 42 U.S.C. § 406(a) for legal services provided in connection with administrative proceedings before the agency, leaving only \$12,276 reserved by the agency to satisfy the § 406(b) fee request. Pl.'s Mot. 3. Plaintiff's counsel accepts the \$12,276 amount. Thus, Plaintiff is awarded \$12,276 in attorney's fees under § 406(b), less any applicable processing fees as allowed by statute. Any amount withheld after all administrative and court attorney's fees are paid should be released to the claimant.

IT IS SO ORDERED.

Dated this 2 day of August, 2017


Marco A. Hernandez
United States District Judge